

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**STATE OF NEW MEXICO,**

**Plaintiff,**

**v.**

**CIV. No. 00-576 JP/KBM**

**CARLOS L. DIAZ & MYRNA DIAZ,**

**Defendants.**

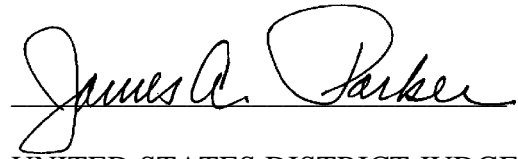
**MEMORANDUM OPINION AND ORDER**

On May 8, 2000 Defendants Carlos L. Diaz and Myrna Diaz filed a Motion for Reconsideration, (Doc. No. 5), of this Court's May 1, 2000 Order remanding this case to the Second Judicial District Bernalillo County, State of New Mexico. Although Defendants complain that this Court did not address Defendants' Notice of Removal and Memorandum in Support, the very first sentence of the May 1 Memorandum Opinion and Order remanding this case to state court refers to Defendants' Notice of Removal and Memorandum in Support. Defendants also assert that this Court did not "bother to request the case file to determine if the removal allegations had merit." This allegation is completely meritless; the Court carefully reviewed the case file before concluding that the case should be remanded. Defendants further state, "[t]he Court stated the case was moot. If the 2nd [sic] Judicial District Court persists in pursuit of both cases with another grand jury-to [sic] prosecute these precise cases, how is the case moot?" (Mo. at ¶ 4.) This rhetorical statement does not refute the conclusion this Court made, based on statements Defendants made in their Memorandum in Support of Notice of Removal, that the

state court cases that were pending against Defendants have since been dismissed without prejudice. Although Defendants appear to have received a letter from the District Attorney indicating that they may be re-indicted, Defendants have not contended that this has actually occurred or that there are any cases in state district court currently pending against them. Therefore, this case is moot.

Finally, it appears that Defendants actually want to file a civil rights lawsuit against various defendants. If that is the case, Defendants should file an appropriate lawsuit rather than wasting time attempting to remove lawsuits from state court that have already been dismissed.

IT IS THEREFORE ORDERED that Defendants' Motion for Reconsideration is DENIED.

  
UNITED STATES DISTRICT JUDGE